SHRI CHATURANAN MISHRA : Madam, at least one information should be given. I would like to know whether the relief operations a.re going to be suspended from today. I would request the Government to clarify the position whether the State Government is going to do so.

DR. YELAMANCHILI SIVAJI: Madam, 1 am not here'to politicze the issue,! am *not* here to criticize the State Government or the Central Government. We need more funds. It is beyond the capacity of the State Government as well as the Central Government. So I would like to appeal to and advise the Government to take up the matter with international institutions! That is one aspect. The second aspect is. *...(Interruptions)...*

THE DEPUTY CHAIRMAN : Agreed, Now, take your seat.

SHRI G. G. SWELL (Meghalaya) : Madam, Ally one sentence. He has said that the Government of Andhra Pradesh has suspended the relief operations from today. It is a very serious statement. Wc would HJce the Government to come forward and say whether this is true or not.

DR. YELAMANCHILI SIVAJI : Let us have a debate on this. Let us have a Half-an-Hour Discussion or a Short-Duration Discussion on this

DR. G. VUAYA MOHAN REDDY There is a lively discussion on Andhra Pradesh ,-

THE DEPUTY CHAIRMAN : Now we are discussing something else about Andhra Pradesh

SHRI CHATURANAN MISHRA : Madam, I would request the Government to spare some time to clarify, the positftm, whether they.have suspended the retirf operations or not.

THE DEPUTY CHAIRMAN The Legislative Councils, Bill, 1990 Shri Ganesan. This is the last speech on the subject and then I will ask the honourable Minister to- reply.

SHRI V GOPALSAMY (Tamil Nadu^ : Madam this is his maiden speed

THE DEPUTY CHAIRMAN : Not all maidens sbuuld the elaborate-some maidens have to be brief

SHRI V NARAYANASAMY : In the name of a maiden speech they should not drag Chief Minister Karunanidhi here to praise him *(Interruptions)...*

THE DEPUTY CHAIRMAN : Please taktj your seat. *...(interruptions)...* Mr. Narayanasamy, don't speak on cverv subject. Please keep your mouth shut sometimes. Please give some rest to your month sometimes. *...(Interruptions)...*

THE LEGISLATIVE COUNCILS BILL. 1990 CONTD

SHRI R. GANESAN *alias* MISA R GANESAN (Tamil Nadu): Madam Deputy Chairman, before 1 begin my speech, first and foremost I would like to thank my respected leader; the hon. Chief Minister Dr. Kahiignar, and the hon. Union Urban Development Minister, respected Thiru Murasoli Maran for giving me an opportunity to come to this great House as. a Member 67 Rajya Sab* ha, and I wholeheartedly thank them for the same

This is my maiden speech, and it is ^really a great honour bestowed on me by mv leader in giving me this opportunity to participate and to deliver my first maiden speech on this historic Hill to provide for the creation of Legislative Councils for Tamil Nadu and Andhra Pradesh.

I mention it as a great honour because I am dirctly connected with this subject, and there lies the diplomacy of my lead cr. Dr. Kalaignar.

At the time of Abolition of the Upper House in Tamil Nadu I was a Member in. that Council representing the Madras Graduates Constituency. Though I was elected in the year 19S4 for a term of si* years, only for two years I was there as a

Member, and in (he year 1986 the same was abolished without proper reasou Plainly speaking, there is nothing personal in our bringing baek the Upper House in Tamil Nadu. The oldest institution of Indian History, the House at the time of abolition with sixty-five years standing, with name and fame, was abolished for flimsy and frivolous reasons. Hence we are bringing back the same. During the Assembly election wc have clearly stated jn our election manifesto that if the D.M.K. would come to power, we would bring back the Upper House. To fulfil our poll promises we arc bringing back the same.

.Madam, first I want to give a short history and the background of the Tamil Nadu Legislative Council, the oldest Council in India, so that this House will understand how right and justifiable we and our leader, Dr. Kalaignar arc in our stand in bringing back the same to Tamil Nadu. This Council was formed in the year 1921 on the recommendations of the Montaguc-ChciTWiford Committee which visited India in the year 1919 during the British regime. At that time the name for. the same was. the Imperial Legislative Council. Three Presidencies were there in India at that time, the Mudras Presidency, the Bengal Presidency and the Bombay Presidency All these Presidencies, as per the recommendation, had the Imperial legislative Councils. Elected representatives from more than 500 provinces of India were representing in these Councils.

At that time the Madras Presidency consisted of four States, Tamil Nadu, ,- Kerala, Andhra Pradesh and KarnataVa.

and the imperial Legislative Council for the Madras Presidency had a total strength of 132 Members. Sixty-five Members were elected from the General constituencies, 32 from the Reserved and 34 were nominated

Here I have to list out some of the stalwarts, the eminent personalities of Indian History and the freedom movement and great people who have represented the Council. The great Rajaji was there. The great patriot, Sathyamut-thi was there. Silver-tongued orator SriiJivasa Sasthiri, our late lamcnded founder-leader. Dr. Anna, Dr. Muthulak-shiini Reddy who fought for women's liberation in the 30's was there. And only when she was the Deputy Leader of the House that the Abolition of the Dc-wadasi Act was passed in that Council The famous Communal G. O. for reservation, the basic principle of the Dravi-dian Movement were brought only in that council. Dr. A. Lakshivtana Samy Mudal-iar represented in that Council. The list is too big, but I cut it short here.

Madam, such a renowned Council was abolished in the year 1986 for nothing. The reason attributed by the then ruling party for the abolition of the same' was not at all convincing. It was nothing but a politically mdtivated move and a,vindictive measure of the then ruling party.

Here in this contest it is my duty to point out two important happenings to justify my stand

In 1984 when I was elected to the Tamil Nadu Legislative Council from the Madnis Graduates Constituency, the strength of the DMK in the Upper House was five. Our leader in the house was Dr. Kaiaignar who was elected in the same year from the Tamil Nadu Assembly constituency. Next to the ruling party, namely, the AIADMK, we were the biggest party in the Council with five Members. The Congress was four at that time. By the party position we were to be the main Opposition,

But on the firstday when we entered the House, our leader. Dr. Kalaignar was allotted the third seat and the Congress was sitting as the main Opposition. Thiru sathiq Batcha, Treasurer of our party and Member of the House raised the issue in the House itself, "Chairman, we arc five, and t'ic Congress has 4, but you have selected the. Congress as the main Opposition. I want to know which number is big, 5 or 4," he asked.

To that, to Chairman, to our surprise, replied, "The strength of the Congress is also five," and also clarified "On the previous night one Tara Cherian, a sitting Member, nominated by the Governor for her social activities, had joined the Congress (I) and that therebynts strength increased from four to five, and so we have given them the main Opposition status." Madam, this was the reply. Madam, if two parties are having equal

[Shri R. Ganesan]

strength wnat woura be the procedure? By lot they can select which party has to be the main Opposition party. Have they done so? No. They simply decided that Congress party is the main opposition party. Here from this one can understand that the then ruling party was very particular that my leader Dr. Kalaignar should not be allowed to sit as an Opposition leader in the Council. But now the people of Tamil Nadu have given a different verdict. They made him Chief Minister. My leader never bothered for the allotment of the third seat in the Council. He immediately retorted by saying that allotment of a seat foi him is not a big issue. Even if the Chairman asked him to sit in the 17th seat he said that he would raise his voice for the upliftment of the downtrodden, Tamil language, Tamil nadu and Tamil people

My leader also gave a befitting example for the same. The House was then presided over by the Deputy Chairman of the House, who is no other than a present Member here, Leader of the AIADMK group, hon. Shri G. Swaminathan. He is from Tanjore. So my leader gave an example from Tanjore itself. Madam, Tanjore is famous for the Pragateswarar temple constructed by the great King Raja Raja Cholan. The DMK Government in the year 1971 wanted to instal the statue of Raja Raja Cholan inside the temple as a mark, of respect to that great King. But the then Central Government has not given permission for the same. So we installed the statue outside the temple in a nearby road. As the statue was outside the temple; nobody refused to call or not -to accept the same as Raja Raja Cholan whether it is inside the temple premises or outside the temple as Raja Raja Cholan is always Raja Raja Cholan. By quoting this, my leader informed the Chair "the seat is not an important. criterion whether if is the uiud seat or the thirteenth seat. Karunanidhi is always Karunanidhi and I will uphold the high tradition of this House without minding the seat."

Madam, thaf was the reply given by my leader in the year 1984 when he was deliberately denied the status of the Opposition leader. But only for two years that situation prevailed. In the year 1986 another election became due to the Council for one-third members retired by rotation. In that election two more DMK candidates were elected for Coimbatore and Tanjore Graduates Constituency and our strength in the Upper House increased from 5 to 7 and on the other hand 3 members retired from the Council belonging to Congress whose strength came down from 5 to 2. But the Opposition status denied to our party and to our leader in 1984 with political motivation in an unfair method came automatically to us in the year 1986. My leader Dr. Kaliagnar sat as the main Opposition leader. The Upper House gained momentum. The then Chief Minister of Tamil Nadu was not able to digest the same. He might have tried to do the same trick of 1984 by increasing the strength of Congress to 7 from other parties but the Anti-defection Act came into force at that time. So in order to remove Dr. Kalaignar from the status of the Opposition leader the then Chief Minister swiftly made the move to dissolve the House itself. My leader when he came to know of this, went even to the extent of saying "If my becoming the leader of the Opposition is the main reason for abolition of the House, I am ready to resign from the Upper House itself but don't abolish the oldest institution." That was the humble plea of my leader on that day. Madam, for this major policy decision of abolition, have they followed any procedure? No. It is a personal animosity and political motivation of a single man. I am saying this with all fairness. On the other day, Mr. Hanumanthappa also spoke in the same vein. At that time in the election manifesto, M.G. Ramachandran never mentioned that he would abolish the Upper Chamber if he comes to power. There was no mention of it in the Governor's Address. This matter was not

even consulted in the Cabinet meeting. No Cabinet meeting was convened for this purpose. On 9.5.1986 DMK MLA, Mr. Raguman Khan raised this issue in the Assembly by asking a specific question "Whether the Government is having any proposal or idea to abolish the Upper House." The Leader of the House, hon. Minister Mr. Nedunchezhian categorically denied the same and in a firm voice said "They have no idea or move to abolish the Upper House." But within five days on 14.5.1986 they brought the Bill for abolition of Upper House. No Minister in the Cabinet knew about this decision. The then Tamil Nadu Governor was not even informed of this important pojicy decision. The Tamil Nadu Business Rules and Secretariat Instructions clearly specifies the subjects that have to be brought before the Cabinet meeting. It clearly states that proposals to dissolve the Legislative of the State has to be brought before the Council. For Council the same book gives explanation- "Council means the Council of Ministers constituted under article 163. In the Schedule-II it has been clearly stated that any proposals involving any important change of policy or practice has to be discussed in the Cabinet meeting."

How they moved in effecting abolition of the Upper Hdlise? On 20.2.1989 my leader, the present Chief Minister of Tamil Nadu has explained it in the Assembly itself. Only one letter written by the then Chief Minister of Tamil Nadu to the Prime Minister of India, Shri Rajiv Gandhi, dt. 9.5.1986 was the only available record for abolition of the Upper House. This letter was sent to Delhi on 9.5.1986 through Tamil Nadu House with a foot-note as "Approved by CM." Dr. Kalaignar read the letter in the Tamil Nadu Assembly itself. I quote the letter:

"Dear Thiru Rajiv Gandhi, When I met you last in Delhi, I mentioned about our ideas of abolishing the second Chamber of Tamil Nadu Legislature and you expressed your agreement. On that basis we are taking follow-up action. I discussed this with Thiru O. Subramaniam, Leader of the Congress Legislature party also. He indicated that the Congress party would support the move provided suitable advice is received from you. May I therefore request you kindly to give suitable instructions immediately to him *to* the effect that the Members of the Tamil Nadu Congress Legislature Party should support the move? With kind regards, M.G. Ramachandran."

Madam, I am not objecting to this letter. If a letter was written by M.G.R. as a party leader to another party leader, there is nothing wrong in it. But contrary to it, the Tamil Nadu Chief Minister had written this letter to the Prime Minister of India, in his official capacity. This was on the 9th but on that date itself, as 1 mentioned earlier, the leader of the Assembly, Dr. Nedunchezhian categorically informed the House that there is no proposal with the Government for abolition of the Upper House. So the leader of the Assembly has no knowledge of the same. But Madam, within five days, on 14th, without adopting any of the rules mentioned in my .speech earlier, the Bill for abolition of the Upper House was passed. Even after passing the Bill and before sending it to Parliament for approval, the Governor was not consulted. One Deputy Secretary to the Chief Minister wrote on the fila stating that "the intention of the Chief Minister is that this need not be circulated to the Governor" and that Deputy Secretary signed the same. This was the sorry state of affairs in the year 1986 for abolition of the second Chamber. But now our party clearly mentioned the bringing of this House in the Election Manifesto. The matter was thoroughly discussed in the Cabinet meeting before bringing the Bill, it was sent for approval to. the Governor and after adopting all procedures, now it has come here for approval for the creation

C Shri R. Ganesan of the Legislative Council. This stand of Dr. Kalaignar is not for any personal gain but to give due respect to a renowned Chamber adorned with enlightened people By creating municipalities, panchayats and local bodies getting due representation in the Council to ventilate their grievances—the teachers and the graduates getting proper representation—we can get valuable suggestions from eminent and intellectual people.

One hon. Member from Pondicherry, who spoke the other day, mentioned * about the double standard and other things. (*Interruptions).*

THE DEPUTY CHAIRMAN: I am not permitting you, Mr. Narayanasamy. Don't interrupt. I said, please take your seat. *{Interruptions).* I am not permitting you. Please sit down. *{Interruptions).* I said, I am not permitting you and I will tiot permit you even *it* he takes your name a hundred times. You take it from me.

SHRI R. GANESAN *alias* MISA R. GANESAN: I may inform him that right from the beginning, we are having only one standrard and that too the right standard. His late leader, Shrimati Indira Gandhi knew fully well about our standard. If he does not know about it, he should learn it. In fact, the Congress played double standard on this issue in the year 1984 when M.G.R. brought the Bill for abolition. They simply walked away from the House. *{Interruptions).*

THE DEPUTY CHAIRMAN: Please conclude and don't make a provocative speech. Otherwise, I will cut it short.

SHRI R. GANESAN *alias* MISA R. GANESAN: If they could have been at least present in that House at that time even without voting, the resolution for abolition could not have got the requisite majority of not less than two-thirds of the Members of the Asseiribly present and voting. In 1984, they took that stand. In 1989 they voted for the creation of the Council. So like a chameleon, the Congress- and not the DMK, changed its colour.

Madam, before I conclude, I want to mention only one thing. *(Interruptions).*

THE DEPUTY CHAIRMAN: 1 can take care. I request you to please sit down, Mr. Narayanasamy. Otherwise, I will adjourn the House. If you want the Bill to be passed, then sit down. Take your seat and don't provoke. Now, Mr. Ganesan, you also sit down. *{Interruptions).*

SHRI V. NARAYANASAMY (Pondicherry): He alleged that the Congress changed its colour like chameleon. *{Interruptions).*

THE DEPUTY CHAIRMAN. I will see the record.

SHRI R.GANESAN *alias* MISA R. GANESAN: This Bill was passed in the Assembly on 20.2.89 and immediately came here for approval. But I do not know why the previous Rajiv Government kept it pending without passing the same for more than a year. But anyhow, our National Front Government is bringing this not only for Tamil Nadu but also for Andhra Pradesh even without minding who is ruling in that State. Madam, I appreciate the noble gesture especially of our Law Minister in bringing these Bills in this Session itself by giving due respect to these two States.

Last but not least, on behalf of my party and on behalf of , lesser 1 request all the Members of this august House to extend their wholehearted support in passing the same. *(Interruptions)*

SHRI T. CHANDRASEKHAR REDDY (Andhra Pradesh): Madam, he has used the word chameleon against our party. It should be expunged.

THE DEPUTY CHAIRMAN: I will look into the record and see if there is anything unparliamentary, I will remove

it. *(Interruptions)*. I said, I will look into the record. Is it not enough?

If the Members don't stop talking, I will adjourn the House. I warn you, if you do not allow the Minister to speak, I will adjourn the House for lunch.

THE MINISTER OF STEEL AND MINES WITH ADDITIONAL CHARGE OF THE MINISTRY OF LAW AND JUSTICE (SHRI DINESH GOSWAMI): Madam, I am -grateful fo all the Members who have participated in the debate on this Bill. They have made my task lighter becuase there is unanimous support for the Bill. I must also congratulate the last speaker, Mr. Ganesan, for his maiden speech and for putting the...

THE DEPUTY CHAIRMAN: His maiden provocations?

SHRI DINESH GOSWAMIr.and on putting before this *House... (Interruptions)*

THE DEPUTY CHAIRMAN: His maiden provocations.

SHRI DINESH GOSWAMI: ...;his maiden speech and maiden provocations. I hope he is in the habit of provoking maidens. I congratulate hip on placing before this House some of the records of the Tamil Nadu Legilsative Council in its 65 years of history.

Madam, this question whether there should be a second Chamber or hot has been debated not only in our country but also almost in all parliamentary democracies. In fact, there were very interesting debates even in the Constituent Assembly. A remark made there is often quoted and 1 think it has been quoted,here also by somebody. It is, a second Chamber has no value because if it agrees with the first Chamber, it is useless and if it disagrees, then i' is mischievous. At the time when it was debated in the Constituent Assembly, a large number of Members who had contributed during the freedom struggle from their own experience did not support the creation of a second Chamber. Eminent Members like Mr. K.T. Shah. Mr. Kuladar Chaliha, Mr. Hanumanthaiah, Mr. Alagesan and Mr. Krishnamachary were against the creation of a second Chamber. But support was extended to a second Chamber by eminent members like Hukum Singh. Laxminarayan Sahu and Krishnamachary Bharati. Even Mr. Ambedkar was not very much in favour of a second Chamber*. But ultimately he found out a compromise and the compromise was that it would be left to the Legislatures to decide whether they want a second Chamber or not, giving power under Constitutional provisions both to abolish and to create a second Chamber. We had in our country nine States where there were second Chambers. But four of them were abolished by resolutions of the respective State Legislatures. The Tamil Nadu and Andhra Pradesh second Chambers were abolished by resolutions with effect from 1.6.85 in the case of Aftdhra Pradesh and from 1.11.86 in the case of Tamil Nadu. Both the State Assemblies have now passed resolutions that now a second Chamber should be constituted.

Mr. Hanumanthappa, while speaking on the Bill, said that there should be permanency to the second Chamber. I believe that if there is permanency to the second Chamber, then we will be introducing a concept which was not accepted by the founding-fathers of our Constitution. Because there was a wide divergence of opinions on the utility of a second Chamber, the founding-fathers thought it would be appropriate to leave it to the Legislatures themselves. I believe that is the correct approach. Even today we, leave it to the Legislatures to decide whether, if there is a second Chamber, they want to abolish it, or if there is no second Chamber, whether they want to create it or not. The National Front Government is committed to heal the Centre-State relationship and therefore, when certain

State Legislatures, exercising their own judgment, have come to the conclusion that there should be a second Chamber, we have respected it without any hesitation whatsoever. And as the two Assemblies of Tamil Nadu and Andhra Pradesh passed resolutions in favour of a second Chamber, we have accepted them and we have come to this House at the earliest opportunity with a Bill. I am happy that within a few minutes this Bill will get the sanction of this House.

Now, the point raised by Mr. Pramod Mahajan was that there should be a discussion with different States for agreement on a second Chamber. But there again, I am not in favour of accepting his view—he is not present here—because, as 1 said earlier, I think the correct approach which the founding-fathers thought was correct, which today is also correct, is to leave it to the State Legislatures to decide as to whether they feel, in the circumstances prevailing in their State, there should be a second Chamber or not.

A third important point was raised in this debate and that is, in the election to the Second Chamber, under the Constitution, the primary teachers are not voters because the Constitution lays down that only the teachers of secondary standard get this opportunity and a forceful plea was made by the hon. Member that primary teachers should also get an opportunity to elect their own representatives to the Second Chamber. I may only point out that we have an open mind on this, but this being a matter relating to the States, we would like first to consult the States. We have written to different States asking for their views because there is some leason as to why the primary teachers were excluded at the time when the Constitution was framed. We are waiting for responses from the State Governments and after we receive the responses from the State Governments, we will formulate our own views in the matter. I can only assure the House that I will write again ,now to all the State Governments—where there is a Second Chamber—to express their views whether the primary teachers should also be given the opportunity to be electors in the matter of election to the Second Chamber. I do not think any other point was raised in this debate. I once again thank all the speakers and 1 am happy that in tune with our commitment to healthy federal relationship and respect for the opinion of State Legislatures, we have today brought this Bill for the creation of a Second Chamber in Tamil Nadu and Andhra Pradesh and I can assure the House that not only in these measures but also in other measures we will try to maintain the best of relationship with the States and we will give the best of respectful position to the opinion of the State Governments including the State Legislatures.

THE DEPUTY CHAIRMAN: Now, 1 shall put the motion to vote. The question is:

> "That the Bill to provide for the creation of Legislative Councils for the States of Andhra Pradesh and Tamil Nadu and for . matters supplemental, incidental and consequential thereto, be taken into consideration."

The motion was adopted.

THE DEPUTY CHAIRMAN: We shall now take up clause-by-clause consideration of the Bill.

Clause 2 was added to the Bill. Clause 3 was added to the Bill. Clauses 4 to 6 were added to the Bill. Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI DINESH GOSWAMI: Madam, I beg to move:

> "That the Bill be passed."

The question was put and the motion was adopted.

THE DEPUTY CHAIRMAN: The House stands adjourned for an hour for lunch.

The House then adjourned for lunch at fifty minutes past one of the clock.

The House reassembled after lunch at fifty minutes past two of the clock, The Vice-Chairman (Prof. Chandresh P. Thakur) in the Chair

I. UNION DUTIES OF EXCISE (DISTRIBUTION) AMENDMENT BILL, 1990

II. ADDITIONAL DUTIES OF EXCISE (GOODS OF SPECIAL IMPORTANCE) AMENDMENT BILL, 1990

THE MINISTER OF FINANCE (PROF. MADHU DANDAVATE): Mr. Vice-Chairman, Sir, since, according to the List of Business, items 2 and 3 are to be taken up together, I will move both the Bills on Excise Duty together.

Sir, 1 beg to move:

"That the Bill further to amend the Union duties of Excise (Distribution) Act, 1979, as passed by the Lok Sabha, be taken into consideration."

Sir, I also beg to move:

"That the Bill further to amend the Additional Duties of Excise (Goods of Special Importance) Act, 1957, as passed by the Lok Sabha, be taken into consideration."

Sir, the first Bill is to implement the recommendations of the Ninth Finance Commission made in its Second Report dated 18.12.1989 for the year 1990-95 for payment to States out of the Consolidated Fund of India a sum equivalent to a pun of the net proceeds ot certain Union Duties of Excise tc the States to which the law imposing the Duty extends and for distribution of those sums among those States.

Sir, the second Bill is to give effect to the recommendations of the Ninth Finance Commission, made in its Second **Report for the year 1990-95, for distribution among the States of the net proceeds of the Additional Excise Duties.**

Sir, these two Bills which I have moved today arise out of the recommendations of the Second Report of the Ninth Finance Commission, 1990-95, the Report of which, along with the Memorandum as to the action taken on the recommendations, was laid on the Table of the House on the 12th March 1990. as required under article 281 of the Constitution In terms of article 280(3) of the Constitution, the Finance Commission is required to make recommendations in regard to—

(a) the distribution between the Union and the States of the net proceeds of taxes which are to be. or may be, divided between them under Chapter I, Part XII, of the Constitution and allocation between the States of the respective shares of such proceeds;

(b) the principles which should govern the grants-in-aid of the revenues of the States out of the Consolidated Fund of India and the sums to be paid to the States which are in need of assistance by way of grants-in-aid of the revenues under article 275 of the Constitution for the purposes other than those specified in the proviso to clause (1) of the article; and

(c) any other matter referred to the Commission by the President in the interest of sound finance.

As the honourable Members are aware, the Nuth Finance Commission was constituted by the President by his order dated the 17th June 1987. The